



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/774,160

02/06/2004

Stephen F. Wobber

ECIG121953

7274

26389 7590 11/28/2007
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

WENDELL, MARK R

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

11/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/774,160	Applicant(s) WOBBER, STEPHEN F.	
	Examiner Mark R. Wendell	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20070928</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-8, 23, 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, Jr. (US 2966708) in view of Hobbs (US 2787037). Regarding claims 1 and 27, Freeman illustrates in Figure 2 a system for coupling a masonry veneer to a structure (12), an anchor (10) mounted on the structure, comprising:

- A channel body having a channel bottom (16) connected to two walls (18, 20), a first wall (20) of the two walls being projected substantially perpendicular to the channel bottom (16), and a second wall (18) of the two walls being in parallel to the first wall, the second wall having a proximal end and a distal end, the proximal end being projected substantially perpendicular to the channel bottom (16) and the distal end (34) being projected toward the channel bottom, wherein the second wall is projected substantially perpendicular to the channel bottom at a height greater than the first wall.

However, Freeman does not teach the distal end being projected toward the channel bottom at an acute angle. Hobbs illustrates in Figures 1 and 2 a distal end (18) being projected toward the channel bottom at an acute angle. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the anchor of Freeman to have the distal end be projected at an acute angle because it is well known in the art that a projection at a 45 degree angle is better load bearing / stress bearing surface than a 90 degree angle.

Regarding claims 2, 28-30, Hobbs illustrates in Figures 1 and 2 the distal end projected at an angle of roughly 45 degrees which falls within the range of about 30-60 degrees.

Regarding claim 3, Freeman illustrates in Figure 2 a fastener hole (22) in the channel body. The illustration lends credence to the fact that the channel is longer than shown and would therefore include a plurality of holes. The examiner also notes that a plurality of holes is discussed in Column 2, lines 17-20.

Regarding claims 4 and 31, Freeman illustrates the channel body being at least 1 foot in length. Freeman does not distinctly disclose the length of the channel, however from the relative size, compared to other objects within the Figures it is implied that the anchoring channel is at least 1 foot in length.

Regarding claims 7-8, 23, it is described above what is disclosed in Freeman. Freeman does not disclose the anchor comprising a coating of adhesive material, with a peelable backing, on the outer surface of the channel. It is well known within the art of building construction to use an adhesive on the outer surface of an object to provide extra strength to that object in order to withstand external elements such as wind. It would have been obvious to one of ordinary skill in the art to modify the anchor of Freeman to include double-sided tape (which has a peelable backing) with the motivation of adding additional adhesive strength to the object while installing the anchor or to withstand external elements.

Claims 5, 6, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, Jr. (US 2966708) in view of Hobbs (US 2787037) as applied to claims 1-4 above, and further in view of Rice (US 6209281). It is described above what is disclosed by Freeman in view of Hobbs, however neither teaches the channel made from a stainless steel or hot-dip galvanized steel. Rice discloses within column 1 that the connectors are typically made from galvanized steel or stainless steel to keep the strength and integrity in tact over time.

Regarding claims 21 and 22, the claimed method steps of shaping the anchor and dipping the anchor into a molten substance would be obvious given the aforementioned structure of the references above. The examiner notes that the process of hot-dip

galvanizing is well known to use zinc or cadmium for the molten substance which crystallizes on the surface of the steel.

Regarding claim 6, for strength purposes it would have been obvious to one having ordinary skill in the art at the time the invention was made to use 11-20 gauge galvanized steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Claims 9-12, 14-16, 19, 21-24, 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, Jr. (US 2966708) in view of Hobbs (US 2787037) as applied to claims 1-4 above, and further in view of Applicants Admitted Prior Art (AAPA). Regarding claims 9, 12, 14, 24, and 32, it is described above what is disclosed by Freeman in view of Hobbs, however neither teaches a key interfacing with the wall and interlocking with the anchor. Prior Art Figure 1B illustrates a key (128) having a substantially flat body with two ends, a first end (end closest to the anchor) of the substantially flat body having a slit to interlock with the anchor, and a second end of the substantially flat body having one or more openings (stamped tabs) for mortar capture. The Prior Art Figure does not teach the slit projected at an angle less than 90 degrees. However, it would have been obvious to one having ordinary skill in the art at the time of invention to alter the angle of the slot to fit the channel disclosed by Freeman in view of

Hobbes. It is also well known in the art that a projection / slit combination at a 45 degree angle is a better load bearing / stress bearing surface than a 90 degree angle.

Regarding claims 10, 15, 33, Hobbs illustrates in Figures 1 and 2 the distal end projected at an angle of roughly 45 degrees which falls within the range of about 30-60 degrees.

Regarding claim 11, the Prior Art Figure 1B illustrates both the first and second side having side cuts between the ends.

Regarding claims 16 and 34, Freeman illustrates the channel body being at least 1 foot in length. Freeman does not distinctly disclose the length of the channel, however from the relative size, compared to other objects within the Figures it is implied that the anchoring channel is at least 1 foot in length.

Regarding claim 19, Freeman does not disclose the anchor comprising a coating of adhesive material, with a peelable backing, on the outer surface of the channel. It is well known within the art of building construction to use an adhesive on the outer surface of an object to provide extra strength to that object in order to withstand external elements such as wind. It would have been obvious to one of ordinary skill in the art to modify the anchor of Freeman to include double-sided tape (which has a peelable backing) with the

motivation of adding additional adhesive strength to the object while installing the anchor or to withstand external elements.

Claims 13, 17-18, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, Jr. (US 2966708) in view of Hobbs (US 2787037) and AAPA as applied to claims 9-12, 14-34 above, and further in view of Rice (US 6209281). It is described above what is disclosed by Freeman in view of Hobbs and AAPA, however neither teaches the channel made from hot-dip galvanized steel. Rice discloses within column 1 that the connectors are typically made from galvanized steel to keep the strength and integrity in tact over time. For strength purposes it would have been obvious to one having ordinary skill in the art at the time the invention was made to use 11-20 gauge galvanized steel or even a higher gauge, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Regarding claim 26, the examiner notes that the process of hot-dip galvanizing is well known to use zinc or cadmium for the molten substance which crystallizes on the surface of the steel to form an oxidized layer.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman, Jr. (US 2966708) in view of Hobbs (US 2787037) and AAPA, as applied to claims 9-12, 14-16, 19, 21-24, 27-34, in further view of Hohmann (US 5816008). It is discussed above

what is disclosed by Freeman in view of Hobbs and AAPA, however, they do not disclose an anchoring system with at least two anchors. Hohmann discloses an anchoring system with at least two anchors where each anchor (40) is mounted on a structure (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have multiple anchoring structures within the wall for reinforced strength. It would have also been obvious to one having ordinary skill in the art at the time of invention to have the anchors alternate in fashion for additional strength to selected areas of the wall, since it has been held that rearranging parts of an invention involves only routine skill in the art (*In re Japikse*, 86 USPQ 70).

Response to Arguments

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new grounds of rejection, necessitated by amendments to the independent claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Application/Control Number:
10/774,160
Art Unit: 3635

Page 9

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Richard Chilcot
Supervisory Patent Examiner
Art Unit 3635

MRW
November 20, 2007